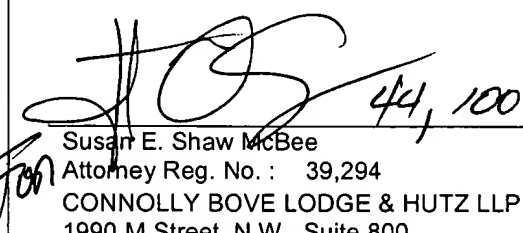


APR 1744

TRANSMITTAL OF APPEAL BRIEF			Docket No. 22153-00002
In re Application of: Oliver Bonnardel et al.			
Application No. 09/524,612	Filing Date March 14, 2000	Examiner G. K. Graham	Group Art Unit 1744
Invention: VEHICLE WASH MITT			
<p style="text-align: center;"><u>TO THE COMMISSIONER OF PATENTS:</u></p> <p>Transmitted herewith in triplicate is the Appeal Brief in this application, with respect to the Notice of Appeal filed: <u>October 20, 2003</u>.</p> <p>The fee for filing this Appeal Brief is <u>165.00</u>.</p> <p><input type="checkbox"/> Large Entity <input checked="" type="checkbox"/> Small Entity</p> <p><input type="checkbox"/> A check in the amount of _____ is enclosed.</p> <p><input checked="" type="checkbox"/> Charge the amount of the fee to Deposit Account No. <u>22-0185</u>.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p> <p><input checked="" type="checkbox"/> The Director is hereby authorized to charge any additional fees that may be required or credit any overpayment to Deposit Account No. <u>22-0185</u>.</p> <div style="text-align: right;">RECEIVED FEB 27 2004</div>			
 Susan E. Shaw McBee Attorney Reg. No. : 39,294 CONNOLLY BOVE LODGE & HUTZ LLP 1990 M Street, N.W., Suite 800 Washington, DC 20036-3425 (202) 331-7111		Dated: <u>February 20, 2004</u>	



Docket No.: 22153-00002-US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Scott Graham

RECEIVED

Application No.: 09/524,612

Confirmation No.: 8732 **FEB 27 2004**

Filed: March 14, 2000

Art Unit: 1744

For: VEHICLE WASH MITT

Examiner: G. K. Graham

APPELLANT'S BRIEF AND REQUEST FOR TWO MONTH EXTENSION OF TIME

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This brief is in furtherance of the Notice of Appeal, filed in this case on October 20, 2003. Applicant respectfully requests a two month extension of time extending the period for response to February 20, 2004.

The fees required under § 1.17(f) and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief is transmitted in triplicate.

This brief contains items under the following headings as required by 37 C.F.R. § 1.192 and M.P.E.P. § 1206:

- I. Real Party In Interest
- II. Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments

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V.	Summary of Invention
VI.	Issues
VII.	Grouping of Claims
VIII.	Arguments
IX.	Claims Involved in the Appeal
Appendix A	Claims

I. REAL PARTY IN INTEREST

The real party in interest for this appeal is:

Scott Graham

II. RELATED APPEALS AND INTERFERENCES

There are believed to be no other appeals or interferences which will directly affect or be directly affected by or have a bearing on the Board's decision in this appeal.

III. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 17 claims pending in application.

B. Current Status of Claims

1. Claims canceled: 0
2. Claims withdrawn from consideration but not canceled: 6
3. Claims pending: 17
4. Claims allowed: 0
5. Claims rejected: 1-9, 16, and 17

C. Claims On Appeal

The claims on appeal are claims 1-17

IV. STATUS OF AMENDMENTS

Applicant filed an Amendment After Final Rejection on September 10, 2003. The Examiner responded to the Amendment After Final Rejection in an Advisory Action mailed September 24, 2003. In the Advisory Action, the Examiner indicated that Applicants' proposed amendments to claims 1-9, 16 and 17, would not be entered.

Accordingly, the claims enclosed herein as Appendix A do not incorporate the amendments to claims 1-17, as indicated in the paper filed. However, the claims in Appendix A do incorporate the amendments indicated in the paper filed by Applicant on April 4, 2003.

V. SUMMARY OF INVENTION

In accordance with the present invention a vehicle washing mitt has been developed for covering vehicle washing brushes, for use on brushes used to wash vehicles, such as those at self-service car washes. There is also claimed a method and a foaming brush.

VI. ISSUES

Are claims 1-9, 16 and 17 indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention?

Are claims 1-5 and 9 anticipated under 35 U.S.C. 102(b) by Wirth (U.S. Patent 5,177,831)?

Are claims 1, 2, 6, 7 and 9 anticipated under 35 U.S.C. 102(b) by GB patent 481,824?

Is claim 8 obvious under 35 U.S.C. 103(a) over GB patent '824 in view of Peterson (U.S. Patent 2,571,606)?

Are claims 16 and 17 obvious under 35 U.S.C. 103(a) over Wirth (U.S. Patent 5,177,831)?

VII. GROUPING OF CLAIMS

For purposes of this appeal brief only, and without conceding the teachings of any prior art reference, the claims have been grouped as indicated below:

Group Claim(s)

- I. Claims 1-9 drawn to a mitt for washing brush
- II. Claims 10-15 drawn to a method of washing a vehicle
- III. Claims 16-17, drawn to a foaming brush

In Section VIII below, Applicant has included arguments supporting the separate patentability of each claim group as required by M.P.E.P. § 1206.

VIII. ARGUMENTS

Claim Rejections – 35 USC § 112

Claims 1-9, 16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is respectfully traversed.

The Examiner has contended that in claim 1, line 1, use of “associated” is vague and questions whether the mitt is coupled with the brushed or not. Applicant believes this term is clear in the claims. Please refer to a list of at least 170+ patents issued recently that employ the language “removably associated with” that was submitted with Applicants prior response to the PTO. Applicant believes there is little chance all 170 of these patents are indefinite as they are presumed valid and were analyzed by the PTO. Since this language was deemed acceptable in other patents and is clear from the instant specification and figures how the removable association operates in the present invention, the former claim language is not believed to be indefinite.

Claim Rejections – 35 USC § 102

Claims 1-5 and 9 have been rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Wirth '831. Claim 1 was treated as a sub-combination of the mitt. However, Applicant respectfully disagrees that the claim is so limited. That is, claim 1 recites both the mitt and the brush "removable associated with" each other. Claim language to this effect should have already been searched and considered by the Examiner.

In any event, the present claims are not taught or suggested by Wirth. That is, Wirth fails to teach or suggest a brush and mitt combination as claimed, much less a self service vehicle wash (as recited in claim 9). This rejection is believed to be improper and should be withdrawn. The Examiner is respectfully requested to reconsider and withdraw the rejection based on Wirth.

Claims 1, 2, 6, 7 and 9 have been rejected under 35 U.S.C. 102(b) as allegedly being anticipated by GB patent '824. This rejection is respectfully traversed.

While the GB patent discloses a cover, nowhere does the GB teach or suggest the claimed apparatus or a self-service vehicle wash. Indeed, the term "vehicle wash brush" must be interpreted by resort to Applicants specification and drawings, which show what one of skill in the art understands a "vehicle wash brush" to comprise and entail. The GB patent's brush is not a "vehicle wash brush" as claimed. Contrary to the Examiner's assessment, a "vehicle wash brush" does in fact define structure not disclosed or suggested by the GB patent. In other words, although the brush of the GB patent could theoretically be used to wash a vehicle, a "vehicle wash brush" as known in the art is not taught. Most clearly, with respect to claim 9, the device of the GB patent could not be considered a self-service vehicle wash. There is simply no teaching or suggestion of a vehicle, much less a self service vehicle wash. This rejection should therefore be withdrawn.

Claim Rejections – 35 USC § 103

Claim 8 has been rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over GB patent '824 in view of Peterson '606. This rejection is respectfully traversed.

The GB patent is deficient for the reasons set forth above. Moreover, the Examiner admits that the GB patent fails to teach or suggest elastic cording sewn in the hem being in the form of an elastic sheet sewn around the edge of the opening. Peterson fails to fill the deficiencies of the GB. Namely, Peterson discloses a cover fitting over the foot of a user to clean floors. The cover can include an elastic tape or sheet (22) sewn about the opening of the cover. Nowhere does Peterson teach or suggest to employ a cover to a vehicle wash brush, and Peterson does not mention vehicles whatsoever. The Examiner is respectfully requested to reconsider and withdraw this rejection.

Claims 16 and 17 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Wirth '831. This rejection is respectfully traversed. As mentioned above, Wirth fails to teach or suggest a self service vehicle wash, much less the “foaming” brush of a vehicle wash.

Indeed, the Examiner admits that Wirth fails to teach a removable cover fit over a brush. In this regard, the Examiner states, “Wirth does not disclose his cover as being fit over a brush.” The Examiner instead relies on his opinion that “such appears obvious in view of the teachings of Wirth.” This “such appear[ing] obvious” is apparently the Examiner’s conclusion that Wirth discloses the use of vehicle washing brushes which employ bristles and are coupled with liquid supply. This is not a self-service car wash, not even in the broadest sense.

Request for Rejoinder

Rejoinder of the withdrawn claims under the *In re Ochiai* guidelines is appropriate since all the examined claims are now allowable the withdrawn claims are methods depending therefrom.

Drawing Objections

The Examiner has alleged that certain elements must be shown in the drawings or the feature must be cancelled from the claims. Applicant respectfully disagrees. See 37 CFR 1.83. That is a “self service car/vehicle wash” is well known and understood not only by those of skill in the art, but to anyone who rides in a vehicle in the United States. The invention is understood without specifically showing a vehicle wash facility since this feature is not the invention by itself.

The invention is a combination brush/mitt suitable to be used in a vehicle wash facility. As far as a removable brush, this is not claimed, rather a removable mitt is claimed, and this feature is clearly shown in the drawings.

A proposed drawing change was submitted to avoid abandonment.

IX. CLAIMS INVOLVED IN THE APPEAL

A copy of the claims involved in the present appeal is attached hereto as Appendix A. As indicated above, the claims in Appendix A do not include the amendment(s) filed on September 10, 2003.

Application No.: 09/524,612

Docket No.: 22153-00002-US

Applicant hereby authorizes the Commissioner to please charge our Deposit Account No. 22-0185, under Order No. 22153-00002-US in the amount of \$375.00 for the fee for appeal and a two month extension of time and any other fees deemed necessary, from which the undersigned is authorized to draw.

Dated: February 20, 2004

Respectfully submitted,

By  44,100
For Susan E. Shaw McBee
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APPENDIX A

Claims Involved in the Appeal of Application Serial No. 09/524,612

1. A mitt removably associated with a vehicle washing brush comprising:

a material formed into the approximate shape of said washing brush, wherein said material is capable of fitting around said washing brush, and said material has a first surface facing and in contact with said washing brush, and a second surface opposite said first surface facing away from said washing brush, and wherein said second surface is woven with fibers capable of washing a surface of a vehicle, and said material is capable of allowing the passage of water from said washing brush;

a fastener capable of securing said mitt onto said brush while water passes through said washing brush.

2. The mitt of claim 1, wherein said material is capable of fitting around said washing brush covering the bottom and all four sides of said washing brush, with an aperture on the top of said mitt, wherein said aperture is capable of allowing the passage of said washing brush into said mitt.

3. The mitt of claim 1, wherein said fastener comprises at least one VELCRO® strap.

4. The mitt of claim 1, wherein said fastener comprises at least one pair of pieces of material capable of being tied, fastened, buckled or buttoned together.

5. The mitt of claim 1, wherein said material is sherpa or sheepskin.

6. The mitt of claim 2, wherein the top edge of said material is sewn into a hem around said aperture.

7. The mitt of claim 6, wherein said hem encloses an elastic material capable of forming a tighter seal around said brush.

8. The mitt of claim 1, wherein an elastic sheet is sewn around the top edge of said material.
9. A self-service vehicle wash comprising the mitt of claim 1.
10. A method of washing a vehicle comprising:
selecting a vehicle washing brush attached to an assembly for delivering water;
attaching the mitt of claim 1 to said brush;
allowing said assembly to deliver said water through said brush and said mitt;
applying said water to said vehicle while washing the surface of said brush.
11. The method of claim 10, wherein said water is soapy water.
12. The method of claim 10, wherein said water is rinse water.
13. A method of washing a vehicle comprising:
attaching the mitt of claim 1 to a hand of a user;
applying water to said vehicle while washing the surface of said vehicle.
14. The method of claim 13, wherein said water is soapy water.
15. The method of claim 13, wherein said water is rinse water.
16. A foaming brush mounted to a self-service car wash comprising a removable mitt according to claim 1.
17. A foaming brush removably mounted to a self-service car wash comprising a cover adapted to fit over said brush.--